

City of Houston, Texas, Ordinance No. 2016-_____

AN ORDINANCE AMENDING CHAPTER 46 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO VEHICLES FOR HIRE; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, the City of Houston (“City”) is a home-rule municipality pursuant to Article XI, Section 5 of the Texas Constitution; and

WHEREAS, Section 215.073 of the Texas Local Government Code provides that a home-rule municipality may license, fix the charges or fares made by, or otherwise regulate any person who owns, operates, or controls any type of vehicle used on the public streets or alleys of the municipality for carrying passengers or freight for compensation; and

WHEREAS, Chapter 46 of the City of Houston Code of Ordinances (“Code”) contains the City’s permit-based regulatory provisions regarding the operation of vehicles for hire within the City limits; and

WHEREAS, the Administration and Regulatory Affairs Department (“ARA”) is responsible for the oversight and implementation of the City’s regulations concerning all vehicles for hire operating within the City; and

WHEREAS, the City is committed to public safety and the implementation of practical regulations that serve to improve the quality of service provided to passengers, and create uniform and equitable standards across all vehicle for hire platforms, where appropriate and possible; and

WHEREAS, ARA conducted a survey of national best practices in peer cities and found that:

- (1) Vehicle for hire regulations are changing to reflect a shift in public attitude toward regulation; and
- (2) Requirements historically imposed on drivers by municipal regulations are better placed on company owners who employ or contract the drivers; and

WHEREAS, ARA recommends that City Council adopt the proposed amendments to Chapter 46 of the Code which, in part, serve to:

- (1) Streamline the driver licensing process relating to pre-licensing requirements including medical physical examinations and drug

screenings to encourage faster onboarding and recruitment of drivers to meet the City's day-to-day transportation needs as well as the demands of national events including the upcoming Super Bowl LI;

- (2) Allow the local vehicle for hire industry more flexibility in using vehicles across multiple platforms and categories by extending and standardizing vehicle service lives to 10 years; and
- (3) Eliminate prohibitions on specific types of vehicles, certain required vehicle equipment, color schemes and promotional door wraps; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Section 46-3 of the Code of Ordinances, Houston, Texas, is hereby repealed.

Section 3. That Section 46-4 of the Code of Ordinances, Houston, Texas, is hereby amended by to reads as follows:

“Sec. 46-4. Failure to pay taxes and permit and license fees; failure to maintain insurance; authorization to operate a vehicle for hire.

(a) A license or permit issued for the operation of a vehicle for hire may be terminated at any time for failure to pay any applicable tax, fee, or installment payments imposed pursuant to this chapter or the Texas Tax Code or failure to maintain the requisite insurance. No license or permit issued for the operation of a vehicle for hire shall be terminated if a tax protest or value-related tax litigation is underway or prior to the date on which the tax becomes past due as specified in the Texas Tax Code.

(b) No permittee shall allow a licensee to operate a vehicle for hire in connection with the permittee, unless such licensee is either:

- (1) A citizen of the Unites States of America;

- (2) A lawful permanent resident of the United States of America; or
- (3) An individual who has the legal right to work as a driver of a vehicle for hire in the United States of America.”

Section 4. That Section 46-6 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 46-6. Drug screening.

(a) The director shall have the authority to require a licensee to submit to a drug screening test when reasonable suspicion to test exists.

- (1) For purposes of this section, reasonable suspicion means an articulable belief based on specific facts and reasonable inferences drawn from those facts that a licensee is under the influence of drugs or alcohol when operating as a vehicle for hire. Circumstances which can constitute a basis for determining reasonable suspicion may include, but are not limited to:
 - a. Complaint of, or information provided regarding, abnormal or erratic behavior on the part of the licensee by a passenger or other reliable and credible source;
 - b. Complaint of, or information provided regarding, direct observation of drug or alcohol use by the licensee by a passenger or other reliable or credible source;
 - c. Complaint of, or information provided regarding, the presence of physical symptoms of drug use in the licensee’s appearance and demeanor (i.e., glassy or bloodshot eyes, slurred speech, poor coordination or reflexes) by a passenger or other reliable or credible source; or
 - d. Violent or threatening behavior.
- (2) A license issued pursuant to this chapter shall be subject to revocation pursuant to the procedures set forth in section 46-5 of this Code if a licensee:

- a. Obtains a positive test result pursuant to a drug screening test required under this section;
- b. Fails to submit to a drug screening test required under this section within 24 hours of being notified by the director or permittee that reasonable suspicion to test exists; or
- c. Fails to provide the results of a drug screening test required under this section to the director within five business days of submitting to the test.

(b) The director shall promulgate rules and regulations relating to the drug screening test required under this section. The drug screening test procedure shall be similar to that prescribed by the mayor for drug screenings for city contractors. The director shall authorize laboratories and facilities that meet nationally recognized standards to obtain samples and perform the tests. The responsibility for obtaining the test and all costs associated therewith shall rest with the licensees.”

Section 5. That Section 46-7 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 46-7. Criminal history check.

(a) Upon initial application for any license and at license renewal intervals stated in this chapter, the director shall cause the criminal history of each person designated as a driver in an application for a license to be researched. In accordance with the provisions of subsections (c) and (d) of this section, each person designated as a driver in an application shall complete any forms required for the director to obtain the report, and the applicant shall present the required completed forms to the director and shall bear the cost to cover any fees imposed by state or federal agencies for the report. This provision shall not be construed to preclude the director from obtaining interim reports at the expense of the city. Results of the criminal history check shall be valid for two years from the date the fingerprints are submitted to the state or federal agency researching the criminal history.

(b) An applicant who has met the other requirements of this chapter may be provisionally authorized to drive for a permittee if the permittee has caused the criminal history of the applicant to be researched by a company approved by the director, and such search discloses that the applicant has no convictions of any applicable offense listed in section 1-10 of this Code. Such a search shall include a national

criminal history database and a national sex offender database. Drivers provisionally authorized pursuant to this subsection shall be required to comply with the requirements of subsection (c) of this section within 30 days of being provisionally authorized by the permittee.

(c) Each applicant for any permit, certificate of registration, or license issued pursuant to this chapter shall be fingerprinted at the location indicated by the director to determine if the applicant has been convicted of any applicable offense listed in section 1-10 of this Code. Upon authorization of the mayor and city council, an applicant may undergo a national background screening administered by a third party in lieu of fingerprint screening to determine whether the applicant has been convicted of any applicable offense listed in section 1-10 of this Code. If applicable, the applicant shall complete any forms required for the director to obtain the report and shall bear the cost to cover any fees imposed by state or federal agencies for the report. This provision shall not be construed to preclude the director from obtaining interim reports at the expense of the city.”

Section 6. That Section 46-9.4 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 46-9.4. Appearance of licensee.

(a) It shall be the duty of every licensee to be hygienically clean, well groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while operating or in custody of a vehicle for hire.

(b) The term suitably dressed means the licensee shall wear slacks, trousers, dress or cargo shorts, a shirt or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments,.

(c) Clothing that is not considered appropriate and is not permitted when the licensee is operating a vehicle for hire includes: underwear (as an outer garment), swimwear, or similar types of attire when worn as an outer garment, or cut off shorts or trunks (jogging or bathing).

(d) Additionally, each licensee shall be authorized to wear other appropriate attire prescribed by the director.”

Section 7. That Section 46-11.1 of the Code of Ordinances, Houston, Texas, is hereby repealed.

Section 8. That Item (8) of Section 46-15 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“(8) The permittee with whom the applicant intends to work; and”

Section 9. That Items (4), (5) and (6) of Section 46-15.1 of the Code of Ordinances, Houston, Texas, is hereby replaced in their entirety with new Items (4) and (5) that read as follows:

“(4) Have no criminal history that is disallowed under section 1-10 of this Code.

(5) Be classified as either:

- a. A citizen of the United States of America;
- b. A lawful permanent resident of the United States of America; or
- c. An individual who has the legal right to work as a driver of a vehicle for hire in the United States of America.”

Section 10. That Subsection (b) of Section 46-18 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“(b) The director shall not authorize a vehicle to initially be placed into service unless it is equipped with an air conditioning system that was factory-installed by the vehicle manufacturer.”

Section 11. That Section 46-20 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 46-20. Age and mechanical condition of taxicabs.

A licensee or permittee shall not drive or cause to be driven upon the streets of the city any taxicab vehicle that is more than ten years old. For purposes of this requirement, a taxicab will be considered to be ten years old on April 30th of the tenth year following the manufacturer's

model year of the vehicle, regardless of the purchase date or the date it was originally placed into service.”

Section 12. That Section 46-22 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 46-22. Vehicle color scheme.

(a) A permittee or licensee shall not drive or cause to be driven any taxicab in the city until the permittee has filed with the director, for approval, the primary color scheme that he proposes to use under his ownership or radio service. In approving or disapproving the primary color scheme submitted, the director shall consider the primary color scheme presently in use by the permittee and the primary color schemes of other permittees.

(b) All new entrant applicants who operate pursuant to a permit transferred in accordance with section 46-72 of this Code must operate vehicles that are white and all signage letters must be dark or deep green. The vehicle primary color scheme shall also have a 2-inch dark or deep green wide stripe along the length of the vehicle, placement of which shall be designated by the director. The director shall determine whether the colors submitted by the permittee comply with the requirements articulated within this section.

(c) If the director approves the primary color scheme, the permittee shall, within 15 days, deliver to the director a color photograph, of a size and kind to be approved by the director, of a taxicab of his primary color scheme, and he shall not change the primary color scheme without approval of the director.”

Section 13. That the definitions of the terms *chauffeured limousine* and *luxury motor vehicle* in Section 46-191 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

“*Chauffeured limousine* means:

- a. A sedan-type luxury motor vehicle with a passenger capacity of five or six persons (including the driver), which vehicle is either less than or equal to ten years of age;
- b. An extended-body type motor vehicle with a passenger capacity of no more than 15 persons (including the driver),

which vehicle is either less than or equal to ten years of age and modified to extend its original factory wheelbase by 40 inches or more in conformity with Federal Motor Vehicle Safety Standard requirements;

- c. A vehicle that is classified in the United States Environmental Protection Agency's annual Fuel Economy Guide as a sport utility vehicle that: (i) has a passenger capacity of not less than five persons nor more than nine persons, including the driver; (ii) has a manufacturer's suggested base retail selling price of not less than \$37,600.00, adjusted annually based upon Consumer Price Index (CPI-U), All Urban Consumers, U.S. City Average, New Trucks, as published by the U.S. Department of Labor, excluding the cost of any manufacturer installed options or of any modifications or conversions that were made by other persons following the original assembly of the vehicle by the manufacturer. The adjustment shall be based upon the not seasonally adjusted data for the month of August and shall be effective November 1st; and (iii) is either less than or equal to ten years of age;
- d. A passenger van with a passenger capacity of eight to 15 persons (including the driver), which vehicle is less than or equal to ten years of age and has a manufacturer's suggested base retail selling price of not less than \$32,500, adjusted annually on November 1st each year based upon Consumer Price Index (CPI-U), All Urban Consumers, U.S. City Average, New Trucks, as published by the U.S. Department of Labor, excluding the cost of any manufacturer installed options or of any modifications or conversions that were made by other persons following the original assembly of the vehicle by the manufacturer, with the adjustment based upon the not seasonally adjusted data for the month of August; or
- e. An antique, classic, or special interest vehicle.

For the purposes of this article, antique means a vehicle that is 25 years old or older; classic means a vehicle recognized by the Classic Car Club of America; and special interest means a vehicle that, due to limited production, outstanding design, and/or technical achievement, is of special interest. The age of the vehicle will be measured from the manufacturer model year date. The model year shall always count as the first full year. It shall be the duty of the director to make a determination as to whether or not a given vehicle is less than or equal to ten years of age or is an

antique, classic or special interest vehicle within the meaning of this article.”

“*Luxury motor vehicle* means:

- a. Any livery edition vehicle; or
- b. A vehicle that has a manufacturer's suggested base retail selling price of not less than \$33,000.00, adjusted annually based upon Consumer Price Index (CPI-U), All Urban Consumers, U.S. City Average, New Cars, as published by the U.S. Department of Labor, excluding the cost of any manufacturer installed options or of any modifications or conversions that were made by other persons following the original assembly of the vehicle by the manufacturer. The adjustment shall be based upon the not seasonally adjusted data for the month of August and shall be effective November 1st.”

Section 14. That Section 46-191 of the Code of Ordinances, Houston, Texas, are hereby amended by adding, in the appropriate alphabetical order position, a new definition that reads as follows:

“*Livery edition vehicle* means a vehicle manufactured for being used primarily to provide chauffeured limousine transportation services for hire to the general public.”

Section 15. That Section 46-237 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 46-237. Tests and inspections of limousine vehicles.

The director may at any time, and shall at least once each year, make tests and inspections of all limousine vehicles then in operation to assure that they are in compliance with the terms of section 46-236 of this Code. If upon inspection the director finds a limousine vehicle is not in compliance with any of the requirements therein set out, he shall notify the permittee of the defects observed. The permittee shall immediately correct the defects. Any vehicle that is the subject of the notification shall not be operated on any street of the city until it has been reinspected and determined to be in compliance with the requirements of inspection. The director shall be given access to the vehicles at all reasonable times. Failure to submit a vehicle requested for inspection by the director shall be

cause for suspension of the operation of the vehicle until such time the vehicle is submitted for inspection and it is determined that the vehicle is in compliance with the terms of section 46-236 of this Code.”

Section 16. That Section 46-513 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 46-513. Transportation network vehicles—Age and mechanical condition.

In addition to the provisions of section 46-514 of this Code, no licensee or permittee shall drive or cause to be driven upon the streets of the city any transportation network vehicle that is more than ten years old. For purposes of this requirement, a transportation network vehicle will be considered to be ten years old on July 31st of the tenth year following the manufacturer's model year of the vehicle, regardless of the purchase date or the date it was originally placed into service.”

Section 17. That Section 46-556 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 46-556. Vehicle age and standards.

(a) Each wheelchair accessible vehicle must be a ramp- or lift-equipped wheelchair accessible vehicle or a vehicle constructed and designed or redesigned, modified, or equipped to provide vehicle for hire transportation services to persons with disabilities who require the use of a wheelchair as a means of movement or ability to move from one place to another.

(b) Except as provided in subsection (c) of this section, a licensee or permittee shall not drive or cause to be driven upon the streets of the city any wheelchair accessible vehicle that is more than ten years old. For the purposes of this requirement, a wheelchair accessible vehicle will be considered to be ten years old on September 30th of the tenth year following the manufacturer's model year of the vehicle, regardless of the purchase date or the date it was originally placed into service.

(c) A licensee or permittee may drive or cause to be a driven a wheelchair accessible vehicle indefinitely beyond the age limitation prescribed in subsection (b) of this section provided the licensee or permittee submits the wheelchair accessible vehicle for inspection each year, at a location authorized and identified by the director prior to the expiration of the permit and the director determines that the wheelchair

accessible vehicle is in compliance with the provisions of section 46-548 of this Code and any other conditions of operation prescribed by the director.”

Section 18. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the “Code”) to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 19. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 20. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND

APPROVED this ___ day of _____, 2016.

Mayor of the City of Houston

Prepared by Legal Dept. ^{JMC} Cardice M. Samuels
CMG:jmb:asw 12/6/2016 Senior Assistant City Attorney
Requested by Tina Paez, Director, Department of Administration and Regulatory Affairs
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